

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 14, 2005

Regulation Package #0803-18

CDSS MANUAL LETTER NO. CCL-05-03

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 8, RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

Regulation Package #0803-18**Effective 6/8/05****Sections 87344, 87345, 87566, 87570, 87571, 87725, and 87725.1**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/Residentia_635.htm.

These regulations will give licensing staff the express authority to copy client or facility records, and to remove them if necessary for copying. The existing regulations do not consistently permit the copying of client or facility records, which has been a hindrance to the licensing program. For example, one licensee of a facility being investigated refused even to let licensing staff hand-copy portions of facility files because the regulations did not clearly state that licensing staff could copy those files.

These regulations will correct the situations described above. They delineate and amplify the licensing program's authority to inspect, audit, and copy client or facility records upon demand during normal business hours; and to remove them if necessary for copying. At the same time, the regulations contain safeguards that prohibit the removal of emergency or health-related information (unless other copies of those documents are available) and establish standards for the safe removal and timely return of records to facilities. They cut across facility categories and apply to all licensed adult and elderly community care facilities, children's residential community care facilities, and child day care facilities. These regulations will ensure that CDSS has reasonable access to information in order to be able to better evaluate facilities, investigate complaints, and protect the health and safety of clients in care.

These regulations were considered at the Department's public hearing held on June 16, 2004.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-05-02. The latest prior manual letter containing Residential Care Facilities for the Elderly regulation changes was Manual Letter No. CCL-04-14.

Page(s)

1 and 2
64.1 through 65.1
83 through 84.2
89 through 90.1
147.6 and 147.7
147.10 and 147.11

Replace(s) Page(s)

1 and 2
64.1 through 65.1
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Attachments

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87344 INSPECTION AUTHORITY OF THE LICENSING AGENCY**87344**

- (a) Any duly authorized officer, employee or agent of the licensing agency may, upon proper identification and upon stating the purpose of his/her visit, enter and inspect the entire premises of any place providing services at any time, with or without advance notice.
- (b) The licensee shall ensure that provisions are made for private interviews with any resident or any staff member; and for the examination of all records relating to the operation of the facility.
- (c) The licensing agency shall have the authority to inspect, audit, and copy resident or facility records upon demand during normal business hours. Records may be removed is necessary for copying. Removal of records shall be subject to the requirements in Sections 87566(f), 87570(d), and 87571(b).
- (d) The licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1569.24, 1569.32, 1569.33 and 1569.35.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1569.24 provides in part:

Within 90 days of initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements.

- (2) Health and Safety Code Section 1569.32 provides in part:

"Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter."

- (3) Health and Safety Code Section 1569.33 provides in part:

"(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

"(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

"(1) When a license is on probation.

"(2) When the terms of agreement in a facility compliance plan require an annual evaluation.

"(3) When an accusation against a licensee is pending.

87344 INSPECTION AUTHORITY OF THE LICENSING AGENCY
(Continued)**87344**

- "(4) When a facility requires an annual visit as a condition of receiving federal financial participation.
 - "(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.
 - "(c) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subdivision (b)...
 - "(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years."
- (4) Health and Safety Code Section 1569.35 provides in part:
- "Upon receipt of a complaint, ...the department shall make a preliminary review and...an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies."

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.24, 1569.33, 1569.34, and 1569.35, Health and Safety Code.

87345 EVALUATION VISIT**87345**

- (a) Every residential care facility for the elderly shall be evaluated as specified in Health and Safety Code Section 1569.33.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1569.33 provides in part:
- "(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.
 - "(b) The department shall conduct an unannounced visit of a facility under any of the following circumstances:
 - "(1) When a license is on probation.

HANDBOOK CONTINUES

87345 EVALUATION VISIT (Continued)

87345

HANDBOOK CONTINUES

- "(2) When the terms of agreement in a facility compliance plan require an annual evaluation.
- "(3) When an accusation against a licensee is pending.
- "(4) When a facility requires an annual visit as a condition of receiving federal financial participation.
- "(5) In order to verify that a person who has been ordered out of the facility for the elderly by the department is no longer at the facility.
- "(c) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subdivision (b)...
- "(d) Under no circumstance shall the department visit a residential care facility for the elderly less often than once every five years."

HANDBOOK ENDS HERE

- (b) Any number of other visits may be made to a facility for various purposes as determined to be necessary by the licensing agency to determine compliance with applicable laws and regulations.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 14569.11, 1569.24, 1569.32, 1569.33, 1569.34, and 1569.35, Health and Safety Code.

87346 EXCLUSIONS (Continued)**87346**

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1569.58 reads:

“(a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

“(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

HANDBOOK CONTINUES

87565 PERSONNEL REQUIREMENTS - GENERAL (Continued)**87565**

- (g) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:
- (1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or
 - (2) Request a transfer of a criminal record clearance as specified in Section 87219(c) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87219.1(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (h) All services requiring specialized skills shall be performed by personnel qualified by training or experience in accordance with recognized professional standards.
- (i) Residents shall not be used as substitutes for required staff but may, as a voluntary part of their program of activities, participate in household duties and other tasks suited to the resident's needs and abilities.
- (j) Volunteers may be utilized but may not be included in the facility staffing plan. Volunteers shall be supervised.

NOTE: Authority cited: Sections 1569.30 and 1569.625, Health and Safety Code. Reference: Sections 1569.17, 1569.30, 1569.31, 1569.312, and 1569.625, Health and Safety Code; and Section 42001, Vehicle Code.

87566 PERSONNEL RECORDS**87566**

- (a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:
- (1) Employee's full name.
 - (2) Social Security number.
 - (3) Date of employment.
 - (4) Written verification that the employee is at least 18 years of age, including, but not necessarily limited to, a copy of his/her birth certificate or driver's license.
 - (5) Home address and telephone number.
 - (6) Educational background.
 - (A) For administrators this shall include verification that he/she meets the educational requirements in Sections 87564(b) and (c).
 - (7) Past experience, including types of employment and former employers.
 - (8) Type of position for which employed.
 - (9) Termination date if no longer employed by the facility.
 - (10) Reasons for leaving.
 - (11) A health screening as specified in Section 87565.
 - (12) Hazardous health conditions documents as specified in Section 87565.
 - (13) For employees that are required to be fingerprinted pursuant to Section 80019:
 - (A) A signed statement regarding their criminal record history as required by Section 87219(d).
 - (B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87219(e).
 1. For Certified Administrators, a copy of their current and valid Administrative Certification meets this requirement.

87566 PERSONNEL RECORDS (Continued)**87566**

- (b) Personnel records shall be maintained for all volunteers and shall contain the following:
- (1) A health statement as specified in Section 87565(e).
 - (2) Health screening documents as specified in Section 87565(e).
 - (3) For volunteers that are required to be fingerprinted pursuant to Section 87219:
 - (A) A signed statement regarding their criminal record history as required by Section 87219(d).
 - (B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 87219(e).
- (c) Licensees shall maintain in the personnel records verification of required staff training and orientation.
- (1) The following staff training and orientation shall be documented:
 - (A) For staff who assist with personal activities of daily living, there shall be documentation of at least ten hours of initial training within the first four weeks of employment, and at least four hours of training annually thereafter in one or more of the content areas as specified in Section 87565(c)(2).
 - (B) For staff who provide direct care to residents with dementia in a facility in which the licensee advertises dementia special care, programming, and/or environments, the licensee shall document the following:
 1. The orientation received as specified in Section 87725.1(a)(1).
 2. The in-service training received as specified in Section 87725.1(a)(2).
 - (2) Documentation of staff training shall include:
 - (A) Trainer's full name;
 - (B) Subject(s) covered in the training;
 - (C) Date(s) of attendance; and
 - (D) Number of training hours per subject.
 1. If the training is provided by a trainer in a classroom setting, documentation shall consist of notices of course completion signed by the trainer.

87566 PERSONNEL RECORDS (Continued)**87566**

2. If the educational hours/units are obtained through an accredited educational institution, documentation shall include a copy of a transcript or official grade slip showing a passing mark.
 3. If the educational hours/units are obtained through continuing education, documentation shall include a transcript or official grade slip showing a passing mark, if applicable, or a Certificate of Completion.
- (d) The licensee shall maintain documentation that an administrator has met the certification requirements specified in Section 87564.2 or the recertification requirements in Section 87564.3.
- (e) In all cases, personnel records shall demonstrate adequate staff coverage necessary for facility operation by documenting the hours actually worked.
- (f) All personnel records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:
- (1) Licensing representatives shall not remove any current emergency or health-related information for current personnel unless the same information is otherwise readily available in another document or format.
 - (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (g) All personnel records shall be maintained at the facility and shall be available to the licensing agency for review.
- (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility as specified in Section 87566(f).
- (h) All personnel records shall be retained for at least three (3) years following termination of employment.

NOTE: Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code. Reference: Sections 1569.17(c), 1569.31, 1569.312, 1569.613, 1569.616, and 1569.625, Health and Safety Code.

87570 RESIDENT RECORDS**87570**

- (a) The licensee shall ensure that a separate, complete, and current record is maintained for each resident in the facility or in a central administrative location readily available to facility staff and to licensing agency staff.
- (b) Each record shall contain at least the following information:
 - (1) Resident's name and Social Security number.
 - (2) Dates of admission and discharge.
 - (3) Last known address.
 - (4) Birthdate.
 - (5) Religious preference, if any, and name and address of clergyman or religious advisor, if any.
 - (6) Names, addresses, and telephone numbers of responsible persons, as defined in Section 87101(r), to be notified in case of accident, death, or other emergency.
 - (7) Name, address and telephone number of physician and dentist to be called in an emergency.
 - (8) Reports of the medical assessment specified in Section 87569, and of any special problems or precautions.
 - (9) The documentation required by Section 87702.1(a) for residents with an allowable health condition.
 - (10) Ambulatory status.
 - (11) Continuing record of any illness, injury, or medical or dental care, when it impacts the resident's ability to function or the services he needs.
 - (12) Current centrally stored medications as specified in Section 87575.
 - (13) The admission agreement and pre-admission appraisal, specified in Sections 87568 and 87583.
 - (14) Records of resident's cash resources as specified in Section 87227.
 - (15) Documents and information required by the following:
 - (A) Section 87583, Pre-Admission Appraisal - General;
 - (B) Section 87584, Functional Capabilities;
 - (C) Section 87585, Mental Condition;

87570 RESIDENT RECORDS (Continued)**87570**

- (D) Section 87586, Social Factors;
 - (E) Section 87587, Reappraisals; and
 - (F) Section 87588, Documentation and Support.
- (c) All information and records obtained from or regarding residents shall be confidential.
- (1) The licensee shall be responsible for storing active and inactive records and for safeguarding the confidentiality of their contents. The licensee and all employees shall reveal or make available confidential information only upon the resident's written consent or that of his designated representative.
- (d) All resident records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:
- (1) Licensing representatives shall not remove the following current records for current residents unless the same information is otherwise readily available in another document or format:
- (A) Religious preference, if any, and name and address of clergyman or religious advisor, if any, as specified in Section 87570(b)(5).
 - (B) Name, address, and telephone number of responsible person(s) as specified in Section 87570(b)(6).
 - (C) Name, address, and telephone number of the resident's physician and dentist as specified in Section 87570(b)(7).
 - (D) Information relating to the resident's medical assessment and any special problems or precautions as specified in Section 87570(b)(8).
 - (E) Documentation required for residents with an allowable health condition as specified in Section 87570(b)(9).
 - (F) Information on ambulatory status as specified in Section 87570(b)(10).
 - (G) Continuing record of any illness, injury, or medical or dental care when it affects the resident's ability to function, or services needed, as specified in Section 87570(b)(11).
 - (H) Records of current medications as specified in Section 87570(b)(12).
 - (I) Any other records containing current emergency or health-related information for current residents.

87570	RESIDENT RECORDS (Continued)	87570
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- (2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
- (3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.
- (e) Original records or photographic reproductions shall be retained for a minimum of three (3) years following termination of service to the resident.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, and 1569.315, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

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87571 REGISTER OF RESIDENTS**87571**

- (a) The licensee shall ensure that a current register of all residents in the facility is maintained and contains the following updated information:
 - (1) The resident's name and ambulatory status as specified in Sections 87570(b)(1) and (b)(10).
 - (2) Information on the resident's attending physician as specified in Section 87570(b)(7).
 - (3) Information on the resident's responsible person as specified in Section 87570(b)(6).
- (b) Registers of residents shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Registers may be removed if necessary for copying. Removal of registers shall be subject to the following requirements:
 - (1) Licensing representatives shall not remove current registers unless the same information is otherwise readily available in another document or format.
 - (2) Prior to removing any registers, a licensing representative shall prepare a list of the registers to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.
 - (3) Licensing representatives shall return the registers undamaged and in good order within three business days following the date the records were removed.
- (c) The register of current residents shall be kept in a central location at the facility.
 - (1) The register shall be treated as confidential information pursuant to Section 87570(c).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.315, Health and Safety Code.

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87725

**ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING,
AND/OR ENVIRONMENTS (Continued)**

87725

1. Environmental factors that may be considered include: bedroom decor; architectural and safety features (e.g., wide hallways, handrails, delayed egress, secured perimeters); lighting; colors and visual contrasts; types of furniture; signs; noise factors; memory boxes; nourishment and hydration stations; and functional outdoor space and exercise pathways.
- (I) Changes in condition. Procedures to be followed when a resident's condition changes, including, but not limited to, an explanation of:
 1. When a new care plan is required;
 2. At what point a physician (if any) is involved in developing a care plan;
 3. Special techniques/programs (if any) used for managing specific types of behavior; and
 4. The conditions that would require a resident to be relocated.
- (J) Success indicators, including procedures to:
 1. Ensure an ongoing review of facility programs pertaining to care of residents with dementia;
 2. Make necessary adjustments to better meet residents' needs; and
 3. Assess the program's overall effectiveness/success.
 - a. Examples of areas that may be reviewed include incident reports, staffing levels, input from others, and resident participation in program activities.
- (3) The admission agreement, as specified in Section 87568(e), shall inform the resident and the resident's responsible person, if any, or the conservator, that the facility features, as specified in Section 87725(a)(2), are described in the facility's plan of operation and that the plan of operation is available for review upon request.
- (4) The licensee shall maintain copies of all facility advertisements and marketing/promotional material that indicate the licensee provides special care, programming, and/or environments for residents with dementia or related disorders, and shall maintain the information for a minimum of three years.

**87725 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING,
AND/OR ENVIRONMENTS (Continued)****87725**

- (A) This material shall be available to the public upon request.
 - (B) This material shall also be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section 87344(c).
- (b) Licensees who will discontinue advertising, promoting, or otherwise holding themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall:
- (1) Provide written notification to the licensing agency and to the resident and the responsible person, if any, or the conservator, at least 30 calendar days prior to discontinuing advertising or promoting dementia special care, programming, and/or environments.
 - (A) The notification shall specify the date that the licensee will cease advertising or promoting dementia special care, programming, and/or environments; and, therefore, shall no longer be required to meet the requirements specified in Section 87725(a) and the training requirements in Section 87725.1.
 - (B) The licensee shall maintain a copy of the written notification in each resident's records.
 - (2) On the date specified in the notification, cease all advertisements, publications, and/or announcements that pertain to dementia special care including, but not limited to, those in magazines, newspapers, consumer reports, telephone directory yellow pages, professional or service directories, Internet, radio and/or television commercials.
 - (A) Long-term advertisements, such as yellow pages, shall be removed at the next renewal date.
 - (3) On the date specified in the notification, remove all written references that indicate that the licensee provides dementia special care, programming, and/or environments from all promotional material, advertisements, and/or printed material, including admission agreements and the plan of operation.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.15, 1569.22, 1569.31, 1569.312, 1569.33, 1569.355, 1569.62, 1569.625, 1569.626, and 1569.627, Health and Safety Code.

**87725.1 TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA
SPECIAL CARE, PROGRAMMING, AND/OR ENVIRONMENTS**
(Continued)

87725.1

1. Name, address, and telephone number;
2. Date(s) when consultation was provided;
3. Organization affiliation (if any), as specified in Section 87725.1(a)(2)(C), and/or educational and professional qualifications specific to dementia; and
4. The training topics, specified in Section 87725.1(a)(2)(A), for which consultation was provided.

(E) All trainers shall meet the following education and experience requirements:

1. A minimum of eight hours of certifiable continuing education or three semester units, or the equivalent, from an accredited educational institution, on topics relevant to caring for individuals with dementia.
 - a. Examples of acceptable instruction include, but are not limited to, classes in aging, gerontology, geriatrics, and/or psychosocial needs of the elderly.
2. One of the following experience requirements:
 - a. Current employment as a consultant with expertise in dementia care, as specified in Section 87725.1(a)(2)(C).
 - b. Two years full-time experience, or the equivalent, within the last four years, as an RCFE administrator or as a direct care provider for individuals with dementia.

(F) The licensee shall maintain the following documentation on the trainer(s) described in Section 87725.1(a)(2)(E):

1. Name, address, and telephone number;
2. Topics/subject matter taught;
3. Dates/hours of training provided;

**87725.1 TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA
SPECIAL CARE, PROGRAMMING, AND/OR ENVIRONMENTS**
(Continued)**87725.1**

4. Notation that indicates which of the criteria for experience the trainer meets, as specified in Section 87725.1(a)(2)(E)2., and maintain verification of qualifying criteria; and
5. Proof of completion of the educational requirements, as specified in Section 87725.1(a)(2)(E)1., which may include the following:
 - a. If the educational hours/units are obtained through an accredited educational institution, documentation shall include a copy of a transcript or official grade slip showing a passing mark.
 - b. If the educational hours/units are obtained through continuing education, documentation shall include a transcript or official grade slip showing a passing mark, if applicable, or a Certificate of Completion.

(G) The documentation required in Sections 87725.1(a)(2)(D) and (F) shall be retained for at least three years following the date consultation services/training were provided.

1. This documentation shall be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section 87344(c).

(H) The licensee shall maintain in the personnel records documentation on the in-service training required in Section 87725.1(a)(2) for direct care staff and include the training topic(s) covered, as required in Section 87725.1(a)(2)(A).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625, and 1569.626, Health and Safety Code.